REMARKS

Applicants respectfully request entry of the remarks submitted herein. Claims 18-45 are currently pending. Reconsideration of the pending claims is respectfully requested.

The 35 U.S.C. §112 Rejections

Claims 43-45 stand rejected under 35 U.S.C. §112, second paragraph, as the Examiner asserted that those claims are indefinite for failing to particularly point out and distinctly claim the subject matter that Applicants regard as the invention. According to the Examiner, the use of "improved viscosity stability" and "improved setting properties" in claims 43-45 are relative terms that render the claims indefinite. This rejection is respectfully traversed.

The use of "improved viscosity stability" and "improved setting properties" in claims 43, 44 and 45 is not indefinite because claims 43 and 44 recite "compared to starch solely treated with active chlorine" and claim 45 recites "compared to native corn starch". Therefore, each of the references to an 'improved' property is relative to the indicated reference starch.

Claims 43-45 are not indefinite, and Applicants respectfully request that the rejection of claims 43-45 under 35 U.S.C. §112, second paragraph, be withdrawn.

The 35 U.S.C. §103 Rejections

Claims 43-45 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Wasserman et al. (US Patent No. 5,959,102) in view of Kettlitz et al. (US Patent No. 6,235,894); and claims 39-40 and 42 stand rejected as being unpatentable over Wasserman et al. in view of Kettlitz et al. and further in view of Wongsuragrai et al. (EP 0823439). According to the Examiner, Wasserman et al. discloses methods of improving a starch's organoleptic properties by treating the raw starch with thermolysin, while Kettlitz et al. disclose making heat stable starches by reacting starch with active chlorine. The Examiner asserted that Example 1, which Applicants' used to demonstrate a difference between the claimed starch and the prior art starch, "are not based on the prior art of record" (Office Action at page 5). This rejection is respectfully traversed.

As indicated in independent claims 18, 32, 35 and 37, Applicants' claimed process requires producing "converted starch" by "convert[ing] organoleptic impurities and/or precursors of organoleptic impurities into hydrolyzed or oxidatively-degraded organoleptic impurities and/or hydrolyzed or oxidatively-degraded precursors of organoleptic impurities".

Wasserman et al. discloses the removal of surface-associated proteins (see, for example, column 2, line 60), so Wasserman et al. would not have known that the presence of organoleptic impurities or precursors of organoleptic impurities, much less the presence of the claimed hydrolyzed- or oxidatively-degraded impurities, would have a beneficial effect on the resultant starch. Also, as indicated in the Response to Office Action filed October 21, 2008, Wasserman et al. discloses that de-proteinization has no effect on the thermal properties of starch and minimal effect on the pasting properties (see, for example, Example 6), which essentially teaches away from the claimed processes.

Similarly, although Kettlitz et al. discloses making heat stabilized starch by reacting starch with active chlorine, Kettlitz et al. does not disclose hydrolyzing or oxidatively degrading the organoleptic impurities and/or precursors of organoleptic impurities (e.g., independent claims 18, 32, 35 and 37), nor does Kettlitz et al. disclose using a protease to effect the hydrolysis or oxidative degradation of the organoleptic impurities or the precursors of organoleptic impurities (e.g., claim 37). Applicants note that the control starch used in Example 1 was produced by the process of Kettlitz et al. (see, for example, paragraph [0180] of the present application). Therefore (and contrary to the Examiner's assertions), the comparisons and comments regarding the improved properties of the claimed starch are based on the prior art of record.

The claimed processes are not obvious, in part, simply because leaving residual impurities in the starch would not be expected to improve the properties of the starch (see, for example, paragraph [0051]). Applicants believe the Examiner is applying improper hindsight, and respectfully remind the Examiner that the Supreme Court has "warn[ed] against 'temptation to read into the prior art the teachings of the invention in issue' and instruct[ed] courts to 'guard against slipping into the use of hindsight.'" *KSR International Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1743 (2007) quoting *Graham v. John Deere Co. of Kansas City*, 383 S. Ct. 1 (1966). Therefore, nothing in the combination of references would suggest the claimed processes and, in

view of the remarks herein, Applicants respectfully request that the rejection of the pending claims under 35 U.S.C. §103(a) be withdrawn.

CONCLUSION

Applicants respectfully request allowance of claims 18-45. Please apply the $810 fee for the RCE and any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

/April 8, 2009/

Date:_____

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